

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

AUTOMOTIVE UNITED TRADES
ORGANIZATION,

Plaintiff,

v.

THE STATE OF WASHINGTON, et. al.,

Defendants.

CASE NO. C10-5584BHS

ORDER GRANTING
PLAINTIFF'S MOTION FOR
REMAND TO STATE COURT
AND DENYING ALL OTHER
MOTIONS AS MOOT

This matter comes before the Court on Plaintiff Automotive United Trades Organization's ("Auto") motion for remand of its state law claims to state court. Dkt. 10. The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file and hereby grants Auto's motion for remand and denies the remaining motions for the reasons stated herein.

I. PROCEDURAL HISTORY

The instant lawsuit was originally filed in Grays Harbor Superior Court in Washington State. Dkt. 16 at 2. The complaint alleged that Defendants had violated only state law—no federal claims had been asserted. *See id.* On July 29, 2010, Auto filed an amended complaint alleging that Defendants had also violated Article 1, § 8 of the United States Constitution. *Id.* On August 18, 2010, Defendants removed this case to federal court pursuant to 28 U.S.C. § 1441(b). Dkt. 1. On September 16, 2010, the parties

1 stipulated to dismissing the Article 1, § 8 claim (Dkt. 7), which the Court subsequently
2 dismissed on September 17, 2010 (Dkt. 11). On the same day that the Court dismissed the
3 federal claim, Auto filed the instant motion to remand the remaining state law claims to
4 state court. Dkt. 10. The Defendants filed their response on October 1, 2010 (Dkt. 16),
5 and on October 7, 2010, Auto filed its reply (Dkt. 22).

6 Additionally, Defendants filed a motion to dismiss for failure to join indispensable
7 parties on September 16, 2010. Dkt. 8. On September 23, 2010, amicus parties filed a
8 motion for leave to participate. Dkt. 12. On September 28, 2010, Auto filed a motion to
9 quash improper memorandum filed by nonparties and for sanctions. Dkt. 15.

10 II. DISCUSSION

11 This Court's subject matter jurisdiction is limited to cases that are authorized by
12 the United States Constitution and by statute. *Kokkonen v. Guardian Life Ins. Co. of*
13 *America*, 511 U.S. 375, 377 (1994). Under 28 U.S.C. § 1367(c)(3), a district court "may
14 decline to exercise supplemental jurisdiction over a claim" if "the district court has
15 dismissed all claims over which it had original jurisdiction." *Carlsbad Technology, Inc.*
16 *V. HIF Bio, Inc.*, 129 S. Ct. 1862, 1865 (2009) (internal quotations omitted). "A federal
17 court should consider and weigh in each case, and at every stage of litigation, the values
18 of judicial economy, convenience, fairness, and comity in order to decide whether to
19 exercise jurisdiction over a case brought in that court involving pendent state-law
20 claims." *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 (1988).

21 When the balance of these factors indicates that a case properly belongs in
22 state court, *as when the federal-law claims have dropped out of the lawsuit*
23 *in its early stages and only state-law claims remain, the federal court*
should decline the exercise of jurisdiction by dismissing the case without
prejudice.

24 *Id.* (emphasis added).

25 Here, the parties have stipulated to dismissing the only federal claim in the lawsuit,
26 and the only claims that remain are state law claims. Accordingly, this Court should
27 remand the instant action to state court.

1 The Defendants argue that Auto understood that the addition of the Article 1, § 8
2 claim could lead to removal of their lawsuit to federal court which would eliminate “any
3 unfairness with keeping this case in federal court.” Dkt. 16 at 4. The Defendants seem to
4 suggest that Auto’s lawsuit must remain in federal court because Auto decided to bring a
5 federal claim even though it was subsequently dismissed, and any bias to Auto by having
6 to try its case in federal court was waived by Auto when it acknowledged that removal
7 was possible. Although the Court must weigh fairness to both parties as a factor when
8 considering a motion for remand, the Court must also consider other factors, such as
9 comity, to determine whether the instant action is more appropriately decided in a state
10 court. “Needless decisions of state law should be avoided both as a matter of comity and
11 to promote justice between the parties, by procuring them a surer-footed reading of
12 applicable law.” Dkt. 10 at 5, (quoting *United Mine Workers of America v. Gibbs*, 383
13 U.S. 715, 726 (1966)). The Court will not retain this lawsuit, consisting of only state law
14 claims, simply because Auto understood that the case could be removed by bringing a
15 federal claim. Auto’s only remaining claims arise under state law and would, therefore, be
16 more appropriately decided by a state court. *See* 28 U.S.C. § 1367.

17 Finally, the Defendants argue that remanding this case back to state court would be
18 futile because the Indian tribes, as required parties to this action, cannot be joined in state
19 court because of sovereign immunity. Dkt. 16 at 5 (citing *Snow v. Quinault Indian*
20 *Nation*, 709 F.2d 1319, 1321 (9th Cir. 1983)). Auto contends that the futility doctrine can
21 never be applied to cases in which futility is uncertain. Dkt. 22 at 4 (citing *Int’l Primate*
22 *Prot. League v. Adm’r of Tulane Educ. Fund*, 500 U.S. 72, 89 (1991)). This Court agrees.
23 Auto argues that the uncertainty of whether remand would be futile precludes the Court
24 from finding as such. Dkt. 22 at 4 (citing *Int’l Primate Prot. League*, 500 U.S. at 89).
25 Auto argues that the instant action is not “against the tribal officers, but against the State
26 for potential violations of the Washington Constitution” and does not challenge the
27 State’s agreement with the tribes. Dkt. 22 at 4. Uncertainty exists as to whether
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1 remanding this case to state court is futile because it is unclear if the Indian tribes are
2 required parties to this action.¹ Because uncertainty exists, the Court cannot hold that
3 remand is futile. *See Int'l Primate Prot. League*, 500 U.S. at 89.

4 Because this case is being remanded to state court, the Court denies Defendants'
5 motion to dismiss for failure to join indispensable parties (Dkt. 8), Auto's motion to
6 quash improper memorandum filed by nonparties and for sanctions (Dkt. 15), and amicus
7 parties' motion for leave to participate (Dkt. 12) as moot.

8 **III. ORDER**

9 Therefore, the Court **GRANTS** Auto's motion for remand to state court, and
10 **DENIES** the remaining motions for the reasons stated herein. This case is **DISMISSED**
11 **without prejudice.**

12 DATED this 28th day of October, 2010.

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14 
15 BENJAMIN H. SETTLE
16 United States District Judge
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25 ¹The Defendants moved this Court to dismiss this lawsuit for failure to join
26 indispensable parties. Dkt. 8. However, because of the Court's holding in the instant
27 motion, this Court will not decide if the Indian tribes are required or indispensable parties
28 under Fed. R. Civ. P. 19.